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**From:**

**Sent:** Thursday, April 09, 2009 3:07 PM

**To:**

**Cc:**

**Subject:** RE: Question from the field –

I was in a meeting when [redacted] called and [redacted] (my secretary) gave me a message. I just got off the phone with [redacted] and my impression is that the taxpayer's transaction cannot be done, at least it cannot be done as a rollover. Of course, if the taxpayer has unpaid minimum funding obligations to fund the defined benefit plan, he could take the money he needs out of the defined contribution plan, pay tax on it, pay the 72(t) tax, and use the proceeds to make a contribution to the capital of the employer and then have the employer turn around and contribute the money to the defined benefit plan.

The upshot of my conversation with [redacted] was that she would check with [redacted] and see if he can help you with the analysis of this transaction. I can be reached at [redacted] if you or [redacted] wish to call me on this question. I will be in the office for another hour and a half.